



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**DIVORCE CAUSE NO.128 of 2014**

**A K M .....PETITIONER**

**VERSUS**

**M M M .....RESPONDENT**

**JUDGMENT**

1. The Petitioner has filed a petition dated 6<sup>th</sup> June 2014 seeking the dissolution of her marriage to the respondent. The Petitioner and respondent celebrated their marriage on 12<sup>th</sup> April 2011 at the Registrar's office in Meru. That since the said celebration they cohabited as man and wife in Zimmerman Estate, within Nairobi County. That after the celebration of the said marriage, the parties lived happily for only 6 months and the same was marked with ceaseless conflicts instigated by the Respondent and in October 2011 the respondent left the matrimonial home and flew to undisclosed place and that cohabitation between the parties has not resumed since then. The petitioner argues that she is denied love, conjugal rights and emotional support by the respondent which has made her to suffer from loneliness, anguish and distress. That since October 2011, the respondent cut all channels of communication leaving the petitioner worried and mentally disturbed acts which she argues amounts to cruelty.
2. She avers that despite various efforts by the petitioner to get the respondent over the cell phone and other channels has been futile and the same has subjected the petitioner to mental anguish and suffering. She avers that the respondent left matrimonial home in May 2011 without any justifiable cause and has not made any efforts to reunite with the petitioner and any efforts by the petitioner to resume cohabitation has been futile.
3. The respondent despite being served with the said petition did not enter appearance and the Registrar issued a certificate that the same proceed for hearing as an undefended cause.
4. The cause was heard on 13<sup>th</sup> November 2014. The petitioner reiterated the averments of her petition. There is no issue of the marriage and that the parties were married for about 6 months and between the 5<sup>th</sup> and 6<sup>th</sup> month the respondent began drinking heavily and sleeping out and became abusive when the petitioner raised issues. They stopped living together in October 2011 and have been separated for over 4 years prior to her filing this petition.
5. The petitioner seeks dissolution of her marriage to the respondent on grounds of desertion. Desertion is one of the grounds of divorce listed under the Matrimonial Causes Act Cap 152 (now repealed) and also the Marriage Act 2014. The petitioner in her testimony stated that the respondent left the matrimonial home without any justifiable cause in October 2011 and has not resumed cohabitation since then. I find that the petitioner is denied the rights to companionship from the respondent in view of which I find that their marriage has irretrievably broken down and the respondent deserted the petitioner. I therefore dissolve the marriage between the petitioner and the respondent that was celebrated on the 12th April 2011. A decree nisi to issue forthwith and to be made absolute within 30 days. No orders as to costs. It is so ordered.

Dated, signed and delivered this 9<sup>th</sup> day of *July* 2015.

**R. E OUGO**

**JUDGE**

In the presence of:

..... **For the Petitioner**

..... **For the Respondent**

.....**Court Clerk**